

24 CFR Part 58 - HUD Environmental Review Categorically Excluded (Cat X) Checklist Instructions

Question	Criteria	Law/Regulation	Summary	Process
1	Historic Preservation	National Historic Preservation Act of 1966 – particularly Sections 106 and 110, 36 CFR Part 800	The Act directs federal agencies to take into account the effect of any undertaking (a federally funded or assisted project) on historic properties. "Historic property" is any district, building, structure, site, or object that is eligible for listing in the National Register of Historic Places because the property is significant at the national, state, or local level in American history, architecture, archeology, engineering, or culture. Typically, a historic property must be at least 50 years old and retain integrity.	<p>Review the <i>State History Programmatic Agreement (PA)</i> posted on the Housing & Community Development Environmental Review web page. Start with APPENDIX 1 (Pgs 11-15)</p> <p><u>This section lists all the activities that are exempt from the Historic Preservation Act.</u></p> <p>Ask the following questions: Does the site contain a structure over 50 years of age or is the site in proximity to a structure (1/4 mile) that is over 50 years of age? Are there other properties, including structures fifty (50) or more years old, within the boundaries or in the vicinity of the project that appear to be historic and would thus ordinarily require consultation with the SHPO (State Historic Preservation Officer)?</p> <p>Is the site identified on the National Register of Historic Properties or does it appear to meet the eligibility criteria for the National Register? Does the locality have an inventory of historic places?</p> <p>Vacant ground is not exempt from the regulation. Vacant ground may contain archaeological historic properties.</p> <p>Attach documentation to explain your rationale for determination of “no impact.”</p> <p>If the project cannot be determined to have “No Affect” contact HCD Environmental Review Officer for guidance.</p>

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1	Tribal Consultation	National Historic Preservation Act of 1966 – particularly Sections 106 and 110, CFR Part 800	<p>Before any expenditure of federal funds, agencies must consult with tribes to determine whether a proposed project may adversely affect historic properties and, if so, how the adverse effect could be avoided, minimized or mitigated.</p> <p>Note:</p> <p><u>This applies to projects on and off tribal lands.</u></p>	<p>Review the “<i>When To Consult With the Tribes</i>” worksheet posted on the HCD environmental review web page.</p> <p>If none of the project types apply, check the box on the worksheet. Then sign, scan & attach to the Environmental Review checklist.</p> <p>If any of the project types apply, check the appropriate box on the worksheet and prepare a letter to the appropriate tribe(s) using the tribal contact information and letter template on the Environmental Review web page.</p> <p>Contact only the tribes that that are listed for the county in which the project is located. Write to one person only for each tribe and send to the THPO (Tribal Historic Preservation Officer) contact name, if listed.</p> <p>A 30 day comment period must be allowed for comments from the tribe(s) contacted.</p> <p>Attach the letter to the checklist and provide comments to document any response from the tribe. Contact HCD Environmental Review Officer if comments are received.</p>
2	Floodplains Management	Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Executive Order 11988 requires participation in the National Flood Insurance Program. Federal Policy recognizes that floodplains have unique and significant public values and call for protection of floodplains.	<p>EXCEPTION: RESIDENTIAL REHABILITATION – Compliance is required only when the cost of the rehab is expect to exceed 50% of market value before improvement, excluding costs to bring a structure up to code.</p> <p><u>Project in a Floodplain?</u> No? Document and proceed with project. Attach flood plain map.</p> <p>Yes? <u>Step 2:</u> Does Community in which project is located participate in the National Flood Insurance Program</p>

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2	Floodplains Management Continued . . .			<p><u>Step 3: Yes?</u> Contact CDBG Environmental Specialist & complete 8 Step Process (see template on Environmental Review website.)</p> <p>No? Project cannot be funded with CDBG funds. Find a new location!</p> <p><u>Step 4:</u> Proceed with Project after all public notices have been published and “Environmental Release” is granted by State.</p>
3	Wetlands Protection	Executive Order 11990, particularly sections 2 and 5	<p>The Order requires all federal agencies to "minimize the destruction, loss or degradation of wetlands & preserve & enhance the natural and beneficial values of wetlands." Unless no practical alternatives exist, federal agencies must avoid activities in wetlands that have the potential for adversely affecting the integrity of the ecosystem.</p> <p>Note: Wetlands do not have to be literally “wet” to be considered wetland habitats. Wetlands generally include swamps marshes, bogs, and similar areas.”</p>	<p>Ask yourself these questions:</p> <ul style="list-style-type: none"> · Does the proposed project have a potential to affect or be affected by a wetland? · Are there available alternatives to locate the project elsewhere? · Is the proposed project or activity in compliance with conditions set forth by U.S. Army Corp of Engineers (<i>USACE</i>) concerning permits for dredge and fill activity? · If you are not sure or cannot determine whether wetlands exist, contact area <i>USACE</i> to make determination. · Yes? If it is apparent that the project will be constructed in a wetland, the Grantee must notify the public through publication of 2 public notices in the newspaper (EIGHT-STEP DECISION-MAKING PROCESS). <p>Contact HCD Environmental Specialist for public notice templates.</p>
4	Coastal Barriers Resources Coastal Zone Management	<p>Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]</p> <p>Coastal Zone Management Act, sections 307(c) & (d)</p>	<p>NOT APPLICABLE IN REGION VIII – UTAH</p> <p>NOT APPLICABLE IN REGION VIII - UTAH</p>	<p>None</p> <p>None</p>

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5	Sole Source Aquifers	Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	<p>A sole source aquifer (SSA) is one where:</p> <p>1) The aquifer supplies at least 50 % of the drinking water for its service area.</p> <p>2) There are no reasonably available alternative drinking water sources should the aquifer become contaminated.</p>	<p>See Sole Source Aquifer Letter posted on HCD Environmental review web page.</p> <ul style="list-style-type: none"> · Determine whether or not the project may affect or contaminate one of the 3 aquifers in Utah. · Review current letter from EPA that states that it has designated 3 aquifers in Utah as sole source aquifers. They are located in Oakley, Castle Valley, and Moab. <p>If the proposed project will not in any way affect any underground water source the Environmental Certifying Officer (ECO) must indicate this on the checklist and attach the letter from EPA indicating “No impact” to any sole source aquifers.”</p>
6	Endangered Species	Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	<p>The Act was passed to protect and recover imperiled species and the ecosystems upon which they depend. It provides a means for listing native animal species as endangered and giving them limited protection.</p> <p>Species may be listed as “endangered” or “threatened”.</p>	<p>In compliance with Section 7(a) of the Act, project managers must make a site observation and review the most current list of Endangered Species to ensure that a proposed project is not likely to affect the continued existence of an endangered or threatened species nor result in the destruction or adverse modification of critical habitats of plant and animal life.</p> <p>Review the list of endangered species <u>and their critical habitat</u>. You must be able to make a statement that the critical habitat for “species” is “X” and none of that habitat is present on the project site.</p> <p>For additional help, contact the U.S. Fish and Wildlife Office to make a determination.</p>

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7	Wild and Scenic Rivers	Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	The Act preserves certain rivers with outstanding natural, cultural, and recreational values in a free-flowing condition for the enjoyment of present and future generations. It safeguards the special character of these rivers, while also recognizing the potential for their appropriate use and development. It encourages river management and promotes public participation in developing goals for river protection.	<p>See the List of Inventoried Rivers</p> <p>Review the List of Inventoried Rivers. If the project will be crossing over, discharging into, or in any way impacting any of the rivers or streams included in this National Rivers Inventory (NRI), you must contact the appropriate agency to determine the appropriate mitigation action.</p> <p>If the project will have no influence on any of the rivers or streams, note this on the checklist. Although Utah has only one designated Wild & Scenic River (Virgin River), all eligible and suitable rivers must be afforded the same protection.</p>

8	Air Quality	<p>Clean Air Act, as amended, particularly section 176 (c) & (d); 40 CFR Parts 6,51,93</p> <p>Contact: Paul Bushman (385) 232-4132 pgbushman@utah.gov</p>	<p>The Clean Air Act (CAA) is the comprehensive federal law that regulates air emissions from stationary and mobile sources. Among other things, this law authorizes EPA to establish National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants</p>	<p>A Fugitive Dust Controls Plan is required for construction projects that disturb more than ¼ acre in the following counties: Cache, Box Elder, Weber, Davis, Salt Lake, Tooele & Utah County. Use the link on the environmental review web page to prepare/submit the plan.</p> <p>Please see the list of projects that are typically exempt from the permit requirements.</p> <p>If the project involves building rehabilitation and/or demolition, it is likely that asbestos testing will be required. Please review the asbestos resources on the environmental review web page.</p> <p>Document your comments and conclusions.</p>
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9	Farmlands Protection	Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	<p>Farmland is a unique natural resource. The Act was passed in an effort to assure that the direct or indirect actions of the Federal Government do not cause U.S. farmland to be irreversibly converted to non-agricultural uses.</p> <p>The Act also stipulates that federal programs be compatible with state, local and private efforts to protect farmland.</p>	<p>Determine whether or not the proposed project will convert farmland.</p> <p>Provide information on the land use zoning which now exists in the project area</p> <p>Is the property undeveloped? It could be considered “prime and unique” farmland, <i>regardless</i> of the zoning.</p> <p>Refer to USDA Service Center Listing for Farmlands contact information.</p> <p><u>Cases Where the Act Does Not Apply</u></p> <ol style="list-style-type: none"> 1. The proposed project site does not contain prime, unique, or designated statewide or locally important farmland (as defined by the Act). 2. Urban land is exempt if the land is “already in” or “committed to” urban development—see 7 CFR 658.2(a). 3. Projects involving grants, loans or mortgage insurance for purchase or rehabilitation of existing structures.

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10	Contamination and Toxic Substances	24 CFR Part 50.3(i) & 58.5(i)(2)	It is HUD policy that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.	<p>Note: The conclusions & documentation provided in a Phase 1 Environmental Report (multi-family projects) can be used to complete this section of the environmental checklist.</p> <p>All other projects:</p> <p>Use the Envirofacts – Toxics link that can be found on the HCD Environmental Review web page.</p> <p>This site will give you more information on the sites near the project. Choose the “Multisystem Search” tab at the top of the page.</p> <p><u>Search by ZIP code, NOT the project address. See the list on the next page for minimum required distances.</u></p> <p>Attach a screen print of the search results and document your conclusions.</p> <p>Many ordinary businesses are listed because they are required to report on their emissions and waste. For example, dry cleaners and gas stations are listed but are typically not hazardous to the areas around them.</p> <p>Some sites are Federal in nature and managed by EPA. You may call EPA and ask whether or not the site has been properly contained. If EPA will not comment, you must contact the State Department of Environmental Quality, Division of Environmental Response & Remediation, Dale Urban, (801) 536-4145. Request the same information.</p>

<i>Standard Environmental Record Sources (where available)</i>	<i>Approximate Minimum Search Distance miles (kilometres)</i>
Federal <i>NPL</i> site list	1.0 (1.6)
Federal Delisted <i>NPL</i> site list	0.5 (0.8)
Federal CERCLIS list	0.5 (0.8)
Federal CERCLIS NFRAP site list	0.5 (0.8)
Federal RCRA CORRACTS facilities list	1.0 (1.6)
Federal RCRA non-CORRACTS TSD facilities list	0.5 (0.8)
Federal <i>RCRA generators list</i>	<i>property and adjoining properties</i>
Federal <i>institutional control/engineering control registries</i>	<i>property only</i>
Federal <i>ERNS list</i>	<i>property only</i>
State and tribal lists of <i>hazardous waste sites identified for investigation or remediation:</i>	
State- and tribal-equivalent <i>NPL</i>	1.0 (1.6)
State- and tribal-equivalent CERCLIS	0.5 (0.8)
State and tribal <i>landfill and/or solid waste disposal site</i> lists	0.5 (0.8)
State and tribal leaking storage tank lists	0.5 (0.8)
State and tribal registered storage tank lists	<i>property and adjoining properties</i>
State and tribal <i>institutional control/ engineering control registries</i>	<i>property only</i>
State and tribal voluntary cleanup sites	0.5 (0.8)
State and tribal Brownfield sites	0.5 (0.8)

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11	Environmental Justice	Executive Order 12898	Environmental justice means ensuring that the environment and human health are protected fairly for all people regardless of race, color, national origin, or income. The order requires that consideration is given to how federally assisted projects may have disproportionately high and adverse human health or environmental effects on minority and low-income populations.	You must evaluate the whole action being undertaken with HUD funds, even if the funds are only a portion of the overall project. Indicate on the checklist in words similar to the following that the project has been evaluated and: <u>“there will be no activity performed with these funds that will in any way create discrimination or isolation of minority or low income individuals based on the location or purpose of this project. This project does not create an adverse health or environmental effect that disproportionately impacts minorities or low-income populations.”</u>

12	Noise Abatement & Control	Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart	Noise is defined as any unwanted sound that disturbs human activity. The Act establishes a national policy to promote an environment for all Americans free from noise that jeopardizes their health and welfare.	<p>If the project involves new construction of <u>housing</u> and other noise sensitive projects such as nursing homes, college dormitories, hospitals, libraries, you must determine if any of the following conditions exist:</p> <ol style="list-style-type: none"> 1.major roadways (4 lanes) within 1,000 feet of the site? 2. railroad tracks within 3,000 feet of the site? 3. military & commercial airports within 15 miles of the site? <p>If any of the above circumstances exist you must complete a noise assessment to determine if the noise level in the area exceeds HUD’s limit of 65 dbl.</p> <p>Traffic data (including 10 year projections) must be collected from UDOT and other sources.</p>
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12	Noise Abatement & Control Continued			<p>Note: HUD will only accept conclusions and calculations prepared with <i>their</i> online tools. These can be found on the HCD environmental review web page.</p> <p>Railroad data can be found by contacting Jordan Backman at UDOT: jbackman@utah.gov</p> <p>Note: The HCD environmental review specialist will assist you in collecting data and completing the noise assessment.</p> <p>If the noise level is greater than 65 DBL, you must consult with an acoustical engineering firm to calculate the mitigation measures that will need to be incorporated into the construction to mitigate the noise problem. The firm must use the</p> <p>Projects involving infrastructure improvements (sidewalks, water/sewer, curb and gutter), industrial or commercial facilities are <u>not</u> considered “noise sensitive” and a noise assessment is NOT required.</p> <p>If that is the case, make a note that “This project is not noise sensitive because it does not involve new construction of housing and other noise sensitive project. This project is exempt from HUD’s noise regulations.”</p> <p>Noise assessments are not required for rehabilitation of existing housing.</p>

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13	Explosive and Flammable Hazards	24 CFR Part 51 Subpart C	Both people and property are at significant risk to exposure from the explosion and thermal radiation (fire) when projects are located too close to storage containers of hazardous gas and liquids or chemicals of a flammable or explosive nature. <u>The concern is above ground hazards within one mile of the project</u>	<p>See HUD's online Acceptable Separation Distance (ASD) Calculator that is posted on the HCD environmental review web page.</p> <ol style="list-style-type: none"> 1. The law does not apply to a property owner's personal storage tanks for residential use. 2. The law does not apply to repairs and renovation of a building or buildings where there will <u>not be an increased number of people being exposed to hazardous operations due to the project.</u> <p>Converting a warehouse to housing would NOT be exempt from the regulation.</p> <ol style="list-style-type: none"> 3. The law does not apply to curb, gutter, sidewalk, storm drain waterline, or sewer projects. 4. The law does not apply to underground containers. 5. The law does not apply to containers of 1,000 gallons (water volume) used to hold liquefied petroleum gas (propane) 6. Housing rehabilitation activities that do not increase the number of persons exposed to above ground tanks in the area are exempt from the regulation <p>Make a site review of the project and identify any above ground storage tanks that are within one mile of the project.</p>

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13	<p>Explosive and Flammable Hazards</p> <p>Continued</p>			<p>Look for storage tanks, holding facilities, process vessels, tank truck <u>AND</u> parking areas, railroad freight yards, and transmission lines which may be used to store, process or transport HAZARDOUS products. (Propane, Diesel fuel, etc)</p> <p>Please review the list of Hazardous Substances that is posted on the HCD Environmental Review web page.</p> <p>You can reach out to the business to ask questions about tanks size, etc and what is stored in them.</p> <p>You can also contact the local fire department for information on about storage tanks in the area.</p> <p>Contact the HCD Environmental Review Specialist for guidance on how to use HUD's Online ASD Tool.</p> <p>If a there are storage tanks that contain hazardous materials within 1 mile of the project AND the project will <u>increase the number of people or structures at the project site</u>, you must calculate the Acceptable Separation Distance (ASD) for the project.</p> <p>Attach a copy of the ASD results to document your findings.</p> <p>If no above ground hazards are found within one mile of project, indicate this in the comments section of the environmental checklist.</p>

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14	Runway Protection Zone & Accident Potential Zones	24 CFR Part 51. Subpart D	Some types of development are incompatible for locations in the immediate vicinity of airports and airfields. Potential aircraft accident problems pose a hazard to end users of these development projects.	<p>Determine if project is within 15,000 feet of a military airport or 2,500 feet of a civilian airport. If no, document.</p> <p>If yes, is project located within an Accident Potential Zone (APZ) or Runway Protection Zone/Clear Zone (RPZ/CZ)?</p> <p>Does the project involve new construction; substantial rehabilitation; acquisition of undeveloped land; activities that would significantly prolong the physical or economic life of existing facilities or change the use of the facility to a use that is not consistent with the recommendations of the Department of Defense (DOD)'s Land Use Compatibility Guidelines?</p> <p>If yes, call the HCD Environmental Specialist for guidance.</p>

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15	Lead Based Paint (LBP)	24 CFR Part 35 Residential Lead-Based Paint Hazard Reduction Act of 1992	<p>Congress passed the legislation to protect families from exposure to lead from paint, dust and soil.</p> <p>HUD issued their regulation to protect young children from lead-based paint hazards in pre-1978 housing that is financially assisted by the Federal Government.</p> <p>Applicable to HUD funded projects involving buildings/housing built prior to 1978 when children are present or the building is used for overnight occupancy.</p>	<p>The HUD Lead Based Paint requirements vary based on the following:</p> <p>The type of building involved</p> <p>The age pf of persons residing in or using the building</p> <p>The type of activity</p> <p>The type of HUD funding</p> <p>If the project DOES NOT involve pre-1978 buildings used for children OR sleeping, check “No Impact” on the checklist and enter comments to that effect. Those types of projects do NOT trigger HUD’s Lead Based Paint Regulations.</p> <p>If the project DOES involve pre-1978 buildings used for children or sleeping, indicate “Impact” on the checklist.</p> <p>The HCD environmental Review specialist will contact the checklist preparer for further guidance regarding compliance with the regulation.</p>

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16	Public Drinking Water Systems	<p>Utah Safe Drinking Water Act (Title 19, Chapter 4 of the Utah Code)</p> <p>Governed by Title R309</p> <p>See R309-500 Facility Design and Operation: Plan Review, Operation and Maintenance Requirements</p>	<p>The Division of Drinking Water’s mission is to cooperatively work with drinking water professionals and the public to ensure a safe and reliable supply of drinking water. A “public drinking water system” is legally defined as any drinking water system (publicly or privately owned) which serves 15 or more connections, or 25 or more people at least 60 days out of the year.</p> <p>This criteria does NOT apply to new housing projects where the lines will connect with the existing waterlines</p>	<p>The Utah Department of Environmental Quality (DEQ), Division of Drinking water, requires grantees to submit project plans to prior to construction of public drinking water systems.</p> <p>On-going operation and maintenance procedures are not considered public drinking water projects and are not subject to the project notification, plan approval and operating permit requirements of this rule.</p> <p>The following activities are considered to be “on-going operation and maintenance procedures”:</p> <p><i>replacement of existing deteriorated pipeline where the new pipeline segment is the same size as the old pipeline or the new segment is upgraded to meet the minimum pipeline sizes required by R309-550-5(4) or larger sizes as determined by a hydraulic analysis in accordance with R309-550-5(3), excluding substantial distribution system upgrades that involve long-term planning and complex design</i></p> <p>An approval letter from DEQ must be attached to the checklist in order to receive Environmental Clearance from the HCD environmental review officer. Contact Michael Grange, Technical Assistance, at (801) 536-0069 or by e-mail at mgrange@utah.gov for guidance on this requirement</p>